

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Dennis E. Hecker,

Debtor.

BKY No. 09-50779

Chapter 7

NOTICE OF HEARING AND MOTION FOR TURNOVER OF RECORDS

TO: MONROE SUMMERS, 111K AABC, ASPEN, CO 81611, SUMMERS PROPERTIES WEST, INC., ATTN: OFFICER/MANAGING AGENT, 111K AABC, ASPEN, CO 81611 AND COZY POINTS RANCH, LLC, ATTN: OFFICER/MANAGING AGENT, 111K AABC, ASPEN, CO 81611.

1. Randall L. Seaver, the Chapter 7 Trustee herein, moves the Court for the relief request below and gives Notice of hearing herewith.

2. The Court will hold a hearing on this motion at 2:30 p.m. on February 24, 2010, in Courtroom 8 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and served by delivery not later than February 19, 2010 which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction over this Motion under 28 U.S.C. §157 and §1334 and Bankruptcy Rule 5005. This Motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §542(e) and Local Rule 6072-1.

5. The petition commencing this Chapter 7 case was filed on June 4, 2009. The case is now pending in this Court.

6. On October 21, 2009, this court first entered its order requiring the debtor to produce e-mails to the trustee. On November 19, 2009, this court entered another order requiring compliance with its first order. On January 20, 2010, the trustee's attorney filed a motion seeking to have the debtor held in contempt for, among other things, failing to produce e-mail

transcripts. On January 25, 2010, the debtor produced additional e-mails to the trustee's attorney.

7. One of the items produced on January 25, 2010 was an e-mail exchange between the debtor and an individual named Monroe Summers in Aspen, CO. In an e-mail apparently dated October 16, 2009, Mr. Summers corresponded with Christi Rowan and Debtor Dennis Hecker by e-mail stating as follows:

Christi and Denny,

Please give me an honest appraisal of when I can expect payment of my past due balance in full (\$6,637.64). I am not a wealthy individual and cannot continue to pay the storage on your possessions in the hope of someday recovering my investment. If payment is not forthcoming in a timely manner I will be forced to notify the Bankruptcy Trustee that I have access to some of your assets. I don't want to be forced to do that but I am not going to pay future storage fees.

...

A copy of the e-mail exchange is attached hereto as Exhibit A. As indicated by the e-mail exchange, Monroe Summers has been holding property of this bankruptcy estate. The trustee seeks an order requiring Monroe Summers, Summer Properties West, Inc. and Cozy Point Ranch, LLC (Mr. Summers' ranch) to turnover to the trustee:

- a. A full and complete accounting of all assets which were or have been in their possession since May 1, 2009 and which were held for or on account of Dennis Hecker.
- b. Copies of all documents evidencing the items comprising the "past due balance" of \$6,637.64 as referenced in Mr. Summers October 16, 2009 e-mail to Mr. Hecker.
- c. Copies of all documents relating to or evidencing the storage of any items by Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, which were stored for or on behalf of Dennis Hecker, Christi Rowan or any of Hecker's business entities.
- d. Copies of any and all checks, money orders, cashier's checks, or any other instruments by which Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, have received any payment from, or on behalf of Dennis Hecker or Christi Rowan from January 1, 2009 to date.
- e. Copies of any and all correspondence, including e-mail correspondence, between Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch,

LLC, on one hand and, on the other hand, Christi Rowan or Dennis Hecker, from January 1, 2009 to date.

WHEREFORE, the trustee requests an order of the court requiring Monroe Summers, Summers Properties West, Inc. and Cozy Point Ranch, LLC to turnover the following:

1. A full and complete accounting of all assets which were or have been in their possession since May 1, 2009 and which were held for or on account of Dennis Hecker.
2. Copies of all documents evidencing the items comprising in the "past due balance" of \$6,637.64 as referenced in Mr. Summers October 16, 2009 e-mail to Mr. Hecker.
3. Copies of all documents relating to or evidencing the storage of any items by Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, which were stored for or on behalf of Dennis Hecker, Christi Rowan or any of Hecker's business entities.
4. Copies of any and all checks, money orders, cashier's checks, or any other instruments by which Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, have received any payment from, or on behalf of Dennis Hecker or Christi Rowan from January 1, 2009 to date.
5. Copies of any and all correspondence, including e-mail correspondence, between Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, on one hand and, on the other hand, Christi Rowan or Dennis Hecker, from January 1, 2009 to date.

**LEONARD, O'BRIEN,
SPENCER, GALE & SAYRE LTD.**

Dated: February 5, 2010

/e/ Matthew R. Burton
By: _____
Matthew R. Burton, #210018
Attorneys for Trustee
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, the Chapter 7 Trustee in the above-captioned matter state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on February 5, 2010

/e/ Randall L. Seaver

Randall L. Seaver, Trustee

416448

Minnetonka

From: Dennis E. Hecker [heckerauto@aol.com]
Sent: Tuesday, October 20, 2009 9:19 AM
To: summersproperties@comcast.net
Subject: Re: Past due invoices

GOOD MORNING! SORRY FOR THE RUN AROUND MONROE. I PROMISE BY FRIDAY I WILL FED EX YOU THE CHECK THAT'S OWED TO YOU. AS YOU CAN UNDERSTAND THINGS SUCK HERE. I AM SORRY YOUR TIME AND ENERGY HASN'T BEEN APPRECIATED MORE. DENNY

Dennis E. Hecker heckerauto@aol.com 612-386-5000 952-512-8800 NOTE: privileged. If you are not the intended recipient, we request that you (i) not read, use or disseminate the information, (ii) advise the sender immediately by reply email and (iii) delete this message and any attachments without retaining a copy. Although this email and any attachments are believed to be free of any virus or other defect that may affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by Dennis E. Hecker, for any loss or damage arising in any way from its use.

-----Original Message-----

From: summersproperties@comcast.net
To: Christi Rowan <christimrowan@mac.com>
Cc: Dennis Hecker <heckerauto@aol.com>
Sent: Fri, Oct 16, 2009 3:36 pm
Subject: Past due invoices

Christi and Denny,

Please give me an honest appraisal of when I can expect payment of my past due balance in full (\$6,637.64). I am not a wealthy individual and cannot continue to pay the storage on your possessions in the hope of someday recovering my investment. If payment is not forthcoming in a timely manner I will be forced to notify the Bankruptcy Trustee that I have access to some of your assets. I don't want to be forced to do that but I am not going to pay future storage fees.

I would appreciate your prompt attention to this matter.

Thank you,

Monroe Summers
Summers Properties West, Inc.
111K AABC
Aspen, CO 81611
970-925-4446 (Office)
970-920-9153 (Fax)
970-379-0808 (Cell)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2010, I caused the following documents:

Notice of Hearing and Motion for Turnover of Records and Order (proposed)

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first-class mail, postage paid, to the following:

Monroe Summers
111K AABC
Aspen, CO 81611

Dennis E. Hecker
P.O. Box 1017
Crosslake, MN 56442

Summers Properties West, Inc.
Attn: Officer/Managing Agent
111K AABC
Aspen, CO 81611

Michael B. Lubic
Sonnenschein Nath & Rosenthal LLP
601 S Figueroa St Ste 2500
Los Angeles, CA 90017-5704

Cozy Points Ranch, LLC
Attn: Officer/Managing Agent
111K AABC
Aspen, CO 81611

Michael W. Malter
Binder & Malter LLP
2775 Park Avenue
Santa Clara, CA 95050

/e/ Stephanie Wood

Dated: February 5, 2010

Stephanie Wood
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Dennis E. Hecker,

Debtor.

BKY No. 09-50779
Chapter 7

ORDER

This case is before the court on the motion of Randall L. Seaver, Chapter 7 trustee, for turnover of property of the estate.

Upon the motion and the files,

It is ordered that within seven days from the entry of this order Monroe Summers, Summers Properties West, Inc. and Cozy Point Ranch, LLC, shall turnover to the trustee:

1. A full and complete accounting of all assets which were or have been in their possession since May 1, 2009 and which were held for or on account of Dennis Hecker.
2. Copies of all documents evidencing the items comprising in the "past due balance" of \$6,637.64 as referenced in Mr. Summers October 16, 2009 e-mail to Mr. Hecker.
3. Copies of all documents relating to or evidencing the storage of any items by Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, which were stored for or on behalf of Dennis Hecker, Christi Rowan or any of Hecker's business entities.
4. Copies of any and all checks, money orders, cashier's checks, or any other instruments by which Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, have received any payment from, or on behalf of Dennis Hecker or Christi Rowan from January 1, 2009 to date.

5. Copies of any and all correspondence, including e-mail correspondence, between Monroe Summers, Summers Properties West, Inc. or Cozy Point Ranch, LLC, on one hand and, on the other hand, Christi Rowan or Dennis Hecker, from January 1, 2009 to date.

Dated:

416450